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13 Attorneys for Plaintiff,
14 William R. Turner II

15 UNITED STATES DISTRICT COURT
16 SOUTHERN DISTRICT OF CALIFORNIA

17 '10 CV 1286
18 '10 CV 1286

DMS BLM
DMS BLM

19 William R. Turner II,

20 Plaintiff,

21 vs.

22 EOS CCA; and DOES 1-10, inclusive,

23 Defendants.

Case No.:

24 **COMPLAINT FOR DAMAGES**
25 **1. VIOLATION OF FAIR DEBT**
26 **COLLECTION PRACTICES ACT,**
27 **15 U.S.C. § 1692 ET. SEQ;**
28 **2. VIOLATION OF FAIR DEBT**
COLLECTION PRACTICES ACT,
CAL.CIV.CODE § 1788 ET. SEQ.

JURY TRIAL DEMANDED

FILE BY FAX

COMPLAINT FOR DAMAGES

CR

1 For this Complaint, the Plaintiff, William R. Turner II, by undersigned counsel,
2 states as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
11

12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
13 Defendants transact business here and a substantial portion of the acts giving rise to
14 this action occurred here.
15

16 **PARTIES**

17 4. The Plaintiff, William R. Turner II (hereafter "Plaintiff"), is an adult
18 individual residing at 566 Naples Street, Apartment 111, Chula Vista, California
19 91911, and are each a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).
20

21 5. The Defendant, EOS CCA (hereafter "EOS"), is a company with an
22 address of 700 Longwater Drive, Norwell, Massachusetts 02061, operating as a
23 collection agency, and is a "debt collector" as the term is defined by 15 U.S.C.
24 § 1692a(6).
25
26
27
28

1 6. Does 1-10 (the "Collectors") are individual collectors employed by EOS
2 and whose identities are currently unknown to the Plaintiff. One or more of the
3 Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

6 7. EOS at all times acted by and through one or more of the Collectors.
7

8 **ALLEGATIONS APPLICABLE TO ALL COUNTS**
9

10 **A. The Debt**

11 8. The Plaintiff incurred a financial obligation in the approximate amount of
12 \$580.00 (the "Debt") to AT&T (the "Creditor").
13

14 9. The Debt arose from services provided by the Creditor which were
15 primarily for family, personal or household purposes and which meets the definition
16 of a "debt" under 15 U.S.C. § 1692a(5).
17

18 10. The Debt was purchased, assigned or transferred to EOS for collection,
19 or EOS was employed by the Creditor to collect the Debt.
20

21 11. The Defendants attempted to collect the Debt and, as such, engaged in
22 "communications" as defined in 15 U.S.C. § 1692a(2).
23

24 **B. EOS Engages in Harassment and Abusive Tactics**
25

26 12. EOS called the Plaintiff numerous times per day.
27
28

1 13. EOS called the Plaintiff at his place of employment even though he
2 explained to EOS that he cannot receive calls there.

3
4 14. EOS was rude and abusive when speaking to the Plaintiff.

5 15. EOS is adding fees and interest in violation of the Debt agreement.

6 16. EOS agreed to withdraw payment from the Plaintiff's bank account on
7 April 30, 2010. EOS never withdrew the funds.

8
9 17. EOS threatened to ruin the Plaintiff's credit rating.

10 18. EOS recorded their conversation with the Plaintiff without his
11 permission.
12

13
14 **C. Plaintiff Suffered Actual Damages**

15 19. The Plaintiff has suffered and continues to suffer actual damages as a
16 result of the Defendants' unlawful conduct.

17
18 20. As a direct consequence of the Defendants' acts, practices and conduct,
19 the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety,
20 emotional distress, fear, frustration and embarrassment.
21

22 21. The Defendants' conduct was so outrageous in character, and so extreme
23 in degree, as to go beyond all possible bounds of decency, and to be regarded as
24 atrocious, and utterly intolerable in a civilized community.
25
26
27
28

31. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

32. The Plaintiff is entitled to damages as a result of the Defendants' violations.

33. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

34. The Rosenthal Fair Debt Collection Practices Act, California Civil Code section 1788 et seq. (“Rosenthal Act”) prohibits unfair and deceptive acts and practices in the collection of consumer debts.

35. EOS, in the regular course of business, engages in debt collection and is a “debt collector” as defined by Cal. Civ. Code § 1788.2(c).

36. The Defendants used obscene and profane language when speaking with the Plaintiff, in violation of Cal. Civ. Code § 1788.11(a).

1 37. The Defendants caused a telephone to ring repeatedly and engaged the
2 Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation
3 of Cal. Civ. Code § 1788.11(d).
4

5 38. The Defendants communicated with the Plaintiff with such frequency as
6 to be considered harassment, in violation of Cal. Civ. Code § 1788.11(e).
7

8 39. The Defendants failed to comply with the provisions of 15 U.S.C. §
9 1692, et seq., in violation of Cal. Civ. Code § 1788.13(e).
10

11 40. The Defendants falsely represented that the Plaintiff's debt would be
12 increased by the addition of attorney's fees, investigation fees, service fees, finance
13 charges or other charges, when the charges could not be legally added to the debt, in
14 violation of Cal. Civ. Code § 1788.13(e).
15

16 41. The Defendants falsely represented that information about the Plaintiff's
17 alleged failure to pay the debt would be referred to a credit reporting agency, in
18 violation of Cal. Civ. Code § 1788.13(f).
19

20 42. The Defendants did not comply with the provisions of Title 15, Section
21 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.
22

23 43. The Plaintiff is entitled to damages as a result of the Defendants'
24 violations.
25
26
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PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendants;

C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;

D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

E. Statutory damages of \$1,000.00 per violation for knowingly and willfully committing violations pursuant to Cal. Civ. Code § 1788.30(b);

F. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);

G. Actual damages from the Defendants for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial for the Plaintiff;


H. Punitive damages; and

1 I. Such other and further relief as may be just and proper.
2

3 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
4

5
6
7 DATED: June 16, 2010

LARA SHAPIRO

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11 By: 
12 Lara R. Shapiro

13 Attorney for Plaintiff
14 William R. Turner II
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

William R. Turner II

(b) County of Residence of First Listed Plaintiff County of San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Lara Shapiro 4145 Via Marina 324 Marina del Rey CA 3105770870
Lemberg & Associates, 1100 Summer St Stamford CT 2036532250

DEFENDANTS

EOS CCA; and DOES 1-10, inclusive

FILED

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, LIST THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

10 CV 1286

DMS -BLM DEPUTY

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 PTF ☐ 1 DEF
- Citizen of Another State ☐ 2 PTF ☐ 2 DEF
- Citizen or Subject of a Foreign Country ☐ 3 PTF ☐ 3 DEF
- Incorporated or Principal Place of Business In This State ☐ 4 PTF ☐ 4 DEF
- Incorporated and Principal Place of Business In Another State ☐ 5 PTF ☐ 5 DEF
- Foreign Nation ☐ 6 PTF ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1692

Brief description of cause:

Violations of the Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

25,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/16/2010

SIGNATURE OF ATTORNEY OF RECORD

di

FILE BY FAX

FOR OFFICE USE ONLY

RECEIPT #

147116

AMOUNT

\$350-

APPLYING IFP

JUDGE

MAG. JUDGE

CR TB 06-16-10

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS014716
Cashier ID: mbain
Transaction Date: 06/16/2010
Payer Name: RAPID LEGAL

CIVIL FILING FEE
For: TURNER V EOS CCA
Case/Party: D-CAS-3-10-CV-001286-001
Amount: \$350.00

CHECK
Check/Money Order Num: 028954
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.